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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,638	07/02/2002	Gregory Burdett	08894984US	7715

7590 03/21/2007  
GOWLING LAFLEUR HENDERSON, LLP  
Suite 2600  
160 Elgin Street  
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CANADA

EXAMINER
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HERRING, VIRGIL A

ART UNIT	PAPER NUMBER
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2132

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/774,638	Applicant(s) BURDETT ET AL.	
	Examiner Virgil Herring	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to the reopening after pre-appeal. Because the after-final amendment was not entered for appeal, the claim listing used is that of 5 June 2006. Claims 1-11 are currently pending.

#### ***Response to Amendment***

The amendments to the figures, specification, and claims are sufficient to overcome the prior objections. The prior objections are withdrawn.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Objections***

Claims 1 and 7 are objected to because of the following informalities:

Claim 1 as amended includes extra punctuation. Specifically, there is a semicolon in line 13 and a period in line 15 which must be removed.

The new limitation added to claims 1 and 7 contains a grammatical deficiency that impedes reading the claims. The use of "utilized same" is improper, and appears that it should read "utilize the same".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Travaly et al (US Publication #2002/0159441 A1).

With regards to claim 1, Travaly et al disclose a method of securely accelerating customer premises equipment based virtual private network transmissions over a carrier network comprising the steps of:

establishing an encrypted acceleration tunnel between a VPN acceleration client and a VPN acceleration server in response to a VPN acceleration client request for information; (Fig. 5, where the client is #116 or 118 and the server is #54)

transmitting said VPN acceleration client's VPN address and required data information to said VPN acceleration server over said encrypted acceleration

tunnel; (inherent step required for all VPNs; required information such as username, password, and the address of the target VPN server is inherent)

establishing an encrypted VPN tunnel between said VPN acceleration server and an appropriate VPN switch thus providing access to the appropriate enterprise content servers, said appropriate enterprise content servers corresponding with said required data information transmitted; (Fig. 5, where the switch is the #56 within communication network #64)

wherein said encrypted acceleration tunnel and said VPN acceleration server utilized same network layer in a standard OSI model. (both are VPN tunnels, so they would inherently use the same network layer)

encrypting and transmitting required data corresponding to said required data information from said VPN switch to said VPN acceleration server over said VPN tunnel, said required data is communicated from said appropriate enterprise content server to said VPN switch prior to encryption and transmission; (inherent; VPN communications are secret, thus encryption is required to maintain this secrecy)

decrypting said required data at said VPN acceleration server; (inherent; wireless transmission optimization would have to be performed on unencrypted packets; thus, the packets must be decrypted before they can be "accelerated" to the client)

accelerating and encrypting by said VPN acceleration server and transmitting said required data to said VPN acceleration client; and (inherent;

because a VPN exists between accelerator #54 and client #116, communications between the two must be encrypted to maintain secrecy)

decrypting said required data in response to said VPN acceleration client receiving said required data. (inherent; packets that are encrypted must be decrypted before they can be used)

With regards to claim 3, Travaly et al disclose a method as claimed in claim 1 wherein the required data information includes at least one of a VPN switch address, user name, and password. (all three are inherent to establishing a VPN; the switch address is inherently required, because the VPN is meant to communicate with a specific server on the Internet; the user name and password are inherently required because VPNs are meant to be secure connections between a client and a server)

With regards to claim 7, Travaly et al disclose a server for providing secure virtual private network service for wireless clients comprising:

a first module for terminating a virtual private network tunnel to a private network switch; (Fig. 5, #56 within network #64)

a second module for accelerating data for transmission over a wireless network; and (Fig. 5, #54)

a third module for terminating an encrypted acceleration tunnel to a wireless client whereby a secure virtual network service is provided between the

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private network and the wireless client, for which acceleration of data on the wireless network is provided, (Fig. 5, #116 or 118)

wherein said encrypted acceleration tunnel and said virtual private network tunnel utilized same network layer in a standard OSI model. (both are VPN tunnels, so they would inherently use the same network layer)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 4-6, and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Travaly et al.

With regards to claims 2, 4-6, and 8-11, the claims specify various known methods of establishing VPN (public key infrastructure, IPSec, MPLS, and L2TP). At the time of the invention, it would have been obvious to one skilled in the art that any of these known VPN systems would be applicable in the establishment of any VPN.

Specific examples of PKI, IPSec, MPLS, and L2TP in regards to wireless VPN can be found in US Patents 6,970,459; 6,907,532; 6,976,177; 6,916,247; 6,945,870;

and US Publications 2001/009025; 2001/0020275; 2001/0037384; 2002/0037384;  
2002/0083344; 2003/0046362; 2003/0100369 through 0372; 2003/0088771;  
2003/0053434; and 2003/0058827.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virgil Herring whose telephone number is (571) 272-8189. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



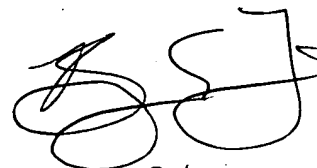
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Virgil Herring VH  
Examiner  
Art Unit 2132

VH

A handwritten signature in black ink, appearing to read 'Benjamin E. Lasser'. The signature is stylized with large, overlapping loops and a long horizontal stroke extending to the right.

Benjamin E. Lasser  
Examiner DM 2132